In The High Court of Uttaranchal, at Nainital.

Civil Misc. W.P. No. 895/2004

Gainda Singh and others ….Petitioner.

Vs.

Board of Revenue and another ...Respondents.

Dated:- 23-9-2004

Hon'ble Rajesh Tandon J.

Heard Sri Lokpal Singh, learned counsel for the petitioners and the learned Standing Counsel for the State.

By the present writ petition the petitioners have prayed for a writ of certiorari quashing the impugned order dated 189-3-1997.

Briefly stated the facts of the case are that during the proceedings under the Land Revenue Act the petitioners have filed the objection. On 7.8.1992 the Tehsildar Haridwar passed the order. The respondent no.2 aggrieved against the said order preferred an appeal no.33 of 1992 Sukhdai vs. Gainda Singh and others. The said appeal was dismissed by the Assistant Collector, Ist class, Haridwar on 31.3.1993. Smt. Sukhdei preferred a revision against the aforesaid order. The Commissioner has made a reference on 9.3.1994 to the Board of Revenue.

During the pendency of the reference Gainda has expired on 24.8.1996. The Board of Revenue has illegally held that the property in dispute has vested with Smt. Sukhdai.The names of the petitioners were directed to be deleted.

The grievance of the petitioners is that the order was brought to his notice on 11.11.2002. They filed a review petition and the same is still pending. The order was passed in the year 1997 and the review application is still pending. Both the proceedings cannot be heard simultaneously.

The authority concerned is directed to decide the review petition within a period of 3 months. Liberty is given to the petitioners to approach the authority concerned (respondent no.1) and if advised they may file the recalling application against the

order dated 18.3.1997. The petitioners are also given liberty to move for interim application before the authority concerned and if such an application is filed and the petitioners are in possession of the property in dispute, the authority concerned is directed to pass appropriate order considering the merits of the case.

Subject to the aforesaid observation, the writ petition is dismissed. No order as to costs.

(Rajesh Tandon, J.)

ISB